

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-24 are pending. Claims 1, 8 and 18 are independent. Claims 1, 3, 5 and 7 are amended. Claims 8-21 are withdrawn from consideration. Claims 22-24 are added. Accordingly, reconsideration of the present application is respectfully requested.

Priority Under 35 USC §119

The Office Action acknowledges the claim for foreign priority under 35 USC §119 based on the priority document JP 11-157934. The Office Action states however that a certified copy of this foreign priority document has not been filed with the USPTO. A certified copy of JP 11-157934 was submitted to the U.S. Patent and Trademark Office on July 2, 2000. It is respectfully requested that the Examiner confirm receipt of the certified copy in the next office communication.

Information Disclosure Statement

An Information Disclosure Statement (IDS) was submitted to the U.S. Patent and Trademark Office on December 4, 2001. Applicants hereby confirm receipt of the initialed PTO-1449 form attached to this IDS. However, an IDS was also submitted to the U.S. Patent and Trademark Office on July 2, 2003. It is requested that the Examiner initial the PTO-1449 form attached thereto and forward a copy with the next office communication to indicate consideration of the reference listed thereon.

Rejection Under 35 USC §112, second paragraph

Claims 3, 5 and 7 are rejected under 35 USC §112, second paragraph, as being indefinite. Claims 3, 5 and 7 are amended to comply with the requirements of 35 USC §112, second paragraph, accordingly, it is respectfully requested that the rejection under 25 USC §112, second paragraph be withdrawn.

Rejection Under 35 USC §103(a)

Claims 1-7 are rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 4,768,527 to Graves, Jr. This rejection is respectfully traversed.

While not conceding the appropriateness of the rejection of the claims, but merely to expedite prosecution of the instant application, independent claim 1 is amended to recite a combination of elements in a sheet tobacco, including a carrier layer covering one side of said tobacco powder layer and made of nonwoven plant fibers, wherein the binder binds together the tobacco powder material in the tobacco powder layer and the nonwoven plant fibers in the carrier layer by infiltration into the carrier layer.

It is respectfully submitted that independent claim 1 is not disclosed by or made obvious over the applied prior art of record, including Graves, Jr. Graves, Jr. greatly differs from the presently claimed invention in that the carrier layer in Graves, Jr. is not made of a nonwoven as required by independent claim 1.

In contrast to applicant's claimed invention, Graves, Jr. discloses a multi-layered sheet like material 50 having a center layer 52 and outer or surface layers 54 and 56, as shown in Fig. 2.

Adhesion between the various layers is provided by filler material and binding agents which may be present in the fill materials. The layers themselves can be made of fibrous tobacco stem containing material, tobacco dust and a binding agent. The present invention however does not make use of filler material, but rather uses a binding agent in one layer which infiltrates another layer and binds together the material in the other layer. Graves, Jr. does not teach or suggest a binder in the tobacco powder layer which binds together the tobacco powder material and the nonwoven plant fibers in the carrier layer by infiltration into the carrier layer, as recited in independent claim 1 as amended.

Added dependent claims 22-24 recite additional aspects of the present invention. It is respectfully submitted that claims 22-24 do not introduce new matter and are not disclosed by the applied prior art of record.

Accordingly, reconsideration and withdrawal of the rejection of claim 1 under 35 USC §103(a) is respectfully requested. The dependent claims depend from an allowable independent claim and are therefore allowable at least because of their dependency from the allowable independent claim and for the additional limitations contained therein.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Sam Bhattacharya (Reg. No. 48,107) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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